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09/922,487	08/03/2001	Christopher I. Halliday		7011

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EXAMINER

BATES, KEVIN T

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

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Technology Center 2100

Application Number: 09/922,487
Filing Date: August 03, 2001
Appellant(s): HALLIDAY, CHRISTOPHER I.

Christopher Halliday Reg. No. 42,621
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 30, 2007 appealing from the Office action mailed March 21, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6317882	Robbins	11-2001
6233389	Barton	5-2001
6067278	Owens	5-2000
6549774	Titlebaum	4-2003

6055244

Wall, Jr

4-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 41-43, 45, 47-48, 50-53, 55-56, 58, 61-64, 74-78, and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins (6317882) in view of Titlebaum (6549774) in further view of Owens (6067278).

Regarding claim 41, Robbins teaches a method of customizing a selection of selecting a station among a plurality of stations (Column 11, lines 12 – 31), comprising the steps of:

receiving on a single (Column 40, lines 10 – 14; Figure 8(a), element 802, the receiving system) receiver a plurality of stations (Column 11, lines 29 – 31), each station comprising a digitally encoded stream containing designations representative of a work of authorship over a global communication network, said global communication network having a plurality of stations;

decoding a selected station from among the plurality of stations (Column 11, lines 13 – 22);

comparing the decoded station with a user designated work of authorship that was selectively saved in a memory by a user while the work of authorship (Column 6, lines 39 – 42) was playing to determine an indication that the user designated work of authorship is contained in the decoded station (Column 5, line 62 – Column 6, line 10)

received by the receiver, wherein the step of comparing occurs while the receiver is providing audio to the user; and

alerting a user to a station other than the station that the user is currently listening to (Column 6, lines 52 – 67), wherein the other station is playing the user designated work of authorship (Column 5, lines 20 – 28),

Robbins does not explicitly that the global communication network is a satellite audio radio network or that the receiving device is a mobile receiver.

Owens teaches a time shifting system which receives radio broadcasts and is able to record those broadcasts (Abstract) which are mobile in such they are located in a vehicle such as an automobile.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Owen's disclosure of time shifting radio stations in an automobile in Robbin's system in order to perform the time shifting while driving in an automobile (Column 1, lines 8 – 11).

Titlebaum teaches a mobile radio station receiver (Column 3, lines 51 – 62) that receives and displays content/authorship information from the broadcast device (Column 4, lines 49 – 59) which includes receiving satellite radio (Column 3, lines 51 – 62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to expand Robbin's teaching of a radio alert system to look for additional types of radio communications that include authorship information in the transmission such as satellite radio found in Titlebaum, in order to allow Robbin's the

increased functionality of working with even more types of radio and video communications.

Regarding claim 42, Robbins teaches the method of claim 41, wherein the step of comparing the decoded station with a user designated work of authorship further comprises the step of storing the designation representative of a work of authorship of the decoded station in a memory (Column 6, lines 43 – 51).

Regarding claims 43 and 52, Robbins teaches a method of selecting an audio or video digital broadcast among two or more audio or video digital broadcasts (Column 11, lines 12 – 31), comprising the steps of:

receiving a digitally encoded stream of at least two broadcast stations over a global communication network (Column 11, lines 29 – 31), wherein at least one broadcast station from the broadcast stations contains a station designation of a work of authorship as an indication of a work of authorship contained in a signal from the broadcast station;

decoding a broadcast station;

providing a user designation of a work of authorship (Column 11, lines 13 – 22);

storing the user designation of a work of authorship in a memory (Column 4, lines 15 – 19); comparing the user designation of a work of authorship with the station designation of a work of authorship at intervals (Column 35, lines 64 – 66); and

alerting a user of desired content if a user designation of a work of authorship matches a station designation of a work of authorship (Column 6, lines 17 – 24).

Robbins does not explicitly that the global communication network is a satellite audio radio network or that the receiving device is a mobile receiver or that the interval is between .01 second and 3 minute.

Robbins teaches that the channel should be repeatedly scanned, repeatedly scanning signifies that the channel should be checked as much as reasonably possible and a reasonable range would be .01 seconds to 3 minute intervals.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a scanning interval in the range of .01 seconds to 3 minutes to ensure that all the ID codes are hit in a radio broadcast such as 30 second commercials.

Owens teaches a time shifting system which receives radio broadcasts and is able to record those broadcasts (Abstract) which are mobile in such they are located in a vehicle such as an automobile.

It would have been obvious to one or ordinary skill in the art at the time the invention was made to use Owen's disclosure of time shifting radio stations in an automobile in Robbin's system in order to perform the time shifting while driving in an automobile (Column 1, lines 8 – 11).

Titlebaum teaches a mobile radio station receiver (Column 3, lines 51 – 62) that receives and displays content/authorship information from the broadcast device (Column 4, lines 49 – 59) which includes receiving satellite radio (Column 3, lines 51 – 62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to expand Robbin's teaching of a radio alert system to look for additional types of radio communications that include authorship information in the transmission such as satellite radio found in Titlebaum, in order to allow Robbin's the increased functionality of working with even more types of radio and video communications.

Regarding claim 45, Robbins teaches the method of claim 43, further comprising the steps of providing and recording desired content (Column 6, lines 4 – 10).

Regarding claim 47, Robbins teaches the method of claim 43, wherein the station designation of a work of authorship is provided to the user prior to a broadcast of the work of authorship (Column 6, lines 17 – 24).

Regarding claim 48 and 58, Robbins teaches the method of claims 43 and 52, wherein the work of authorship is selected from a group consisting of songs, books, movies, movie shorts, educational works, sports events (Column 6, lines 57 – 59).

Regarding claim 50, Robbins teaches the method of claim 43, wherein the user has the ability to listen to the work of authorship (Column 3, line 66 – Column 4, line 3).

Regarding claim 51 and 60, Robbins teaches the method of claims 43 and 52, wherein the step of saving work of authorship, in real-time, as the work of authorship is received (Column 6, lines 8 – 10).

Regarding claim 53, Robbins teaches the device of claim 52, further comprising a recording media for recording the user desired work of authorship in real time as it is provided over the global communication network (Column 6, lines 4 – 10).

Regarding claim 55, Robbins teaches the device of claim 52, further comprising a recording media for recording the user desired work of authorship in real time as it is provided over the global communication network (Column 6, lines 8 – 10).

Regarding claim 56, Robbins teaches the device of claim 55.

Robbins does not explicitly indicate wherein the recording media includes a hard drive, and/or a floppy drive, and/or an optical drive, but the examiner takes official notice that a recording media can include: a hard drive, and/or a floppy drive, and/or an optical drive.

See MPEP § 2144.03 for more details over official notice and common knowledge.

Regarding claim 61, Robbins teaches a method of selecting a radio channel (Column 11, lines 12 – 31), comprising the steps of:

receiving one or more digital radio channels (Column 11, lines 29 – 31) wherein one or more channels includes additional information that indicates the content of one or more of the channels;

comparing the information on one or more of the received digital radio channels with a user designated work of authorship to determine whether the user designated work of authorship is or will be playing on one or more of the digital radio channels; and

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alerting a user to a radio channel that is or will be playing the user designated work of authorship (Column 6, lines 17 – 24).

Robbins does not explicitly that the global communication network is a satellite audio radio network or that the receiving device is a mobile receiver.

Owens teaches a time shifting system which receives radio broadcasts and is able to record those broadcasts (Abstract) which are mobile in such they are located in a vehicle such as an automobile.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Owen's disclosure of time shifting radio stations in an automobile in Robbin's system in order to perform the time shifting while driving in an automobile (Column 1, lines 8 – 11).

Titlebaum teaches a mobile radio station receiver (Column 3, lines 51 – 62) that receives and displays content/authorship information from the broadcast device (Column 4, lines 49 – 59) which includes receiving satellite radio (Column 3, lines 51 – 62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to expand Robbin's teaching of a radio alert system to look for additional types of radio communications that include authorship information in the transmission such as satellite radio found in Titlebaum, in order to allow Robbin's the increased functionality of working with even more types of radio and video communications.

Regarding claim 62, Robbins teaches the method of claim 61, further comprising decoding a radio channel from among the one or more digital radio channels (Column 11, lines 12 – 20).

Regarding claim 63, Robbins teaches the method of claim 61, wherein the information compared with the user designated work of authorship is information from the decoded radio channel (Column 11, lines 12 – 20).

Regarding claim 64, Robbins teaches the method of claim 61, wherein the information on the one or more radio channels comprises data indicating the particular work of authorship that is playing on one or more of the digital radio channels (Column 11, lines 12 – 20).

Regarding claim 74, Robbins teaches a receiver, comprising:

a mobile general purpose computer configured to receive one or more broadcast channels (Column 3, line 66 – Column 4, line 3), the general purpose computer also receiving data indicating what is being played on each channel (Column 4, lines 15 – 19);

wherein the general purpose computer includes a memory, the memory includes a playlist of user designated works of authorship and the general purpose computer is adapted to change channels to a specific broadcast channel if the data indicating what is being played on any channel matches a user request designated work in the playlist (Column 6, lines 17 – 24).

Robbins does not explicitly that the global communication network is a satellite audio radio network or that the receiving device is a mobile receiver.

Owens teaches a time shifting system which receives radio broadcasts and is able to record those broadcasts (Abstract) which are mobile in such they are located in a vehicle such as an automobile.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Owen's disclosure of time shifting radio stations in an automobile in Robbin's system in order to perform the time shifting while driving in an automobile (Column 1, lines 8 – 11).

Titlebaum teaches a mobile radio station receiver (Column 3, lines 51 – 62) that receives and displays content/authorship information from the broadcast device (Column 4, lines 49 – 59) which includes receiving satellite radio (Column 3, lines 51 – 62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to expand Robbin's teaching of a radio alert system to look for additional types of radio communications that include authorship information in the transmission such as satellite radio found in Titlebaum, in order to allow Robbin's the increased functionality of working with even more types of radio and video communications.

Regarding claim 75, Robbins teaches a method of selecting a radio channel, comprising the steps of:

using a receiver to receive one or more digital radio channels and data wherein the data indicates what work of authorship is being played on the one or more digital radio channels (Column 11, lines 29 – 31);

inputting a designation of a desired work of authorship into a memory of a general purpose computer (Column 5, lines 63 – 66), wherein the general purpose computer monitors the data received by the receiver; using the general purpose computer to monitor the data;

receiving an alert when the data matches the input designation of the desired work of authorship indicating that the desired work of authorship is being played on one or more of the digital radio channels (Column 6, lines 17 – 24).

Robbins does not explicitly that the global communication network is a satellite audio radio network or that the receiving device is a mobile receiver.

Owens teaches a time shifting system which receives radio broadcasts and is able to record those broadcasts (Abstract) which are mobile in such they are located in a vehicle such as an automobile.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Owen's disclosure of time shifting radio stations in an automobile in Robbin's system in order to perform the time shifting while driving in an automobile (Column 1, lines 8 – 11).

Titlebaum teaches a mobile radio station receiver (Column 3, lines 51 – 62) that receives and displays content/authorship information from the broadcast device (Column 4, lines 49 – 59) which includes receiving satellite radio (Column 3, lines 51 – 62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to expand Robbin's teaching of a radio alert system to look for

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additional types of radio communications that include authorship information in the transmission such as satellite radio found in Tittlebaum, in order to allow Robbin's the increased functionality of working with even more types of radio and video communications.

Regarding claim 76, Robbins teaches a method of electing a radio channel, comprising the steps of:

receiving a digital audio radio channels and additional information from a satellite that indicates which works of authorship are being broadcast on each channel of at least 100 radio channels (Column 11, lines 29 – 31, where the reference can work with any number of radio channels, as long as its receivable and addressable, its able to monitor it);

comparing the information with a user designated work of authorship to determine whether the user designated work of authorship is playing on one or more of the audio radio channels (Column 5, lines 63 – 66); and

alerting a user to change to the one or more of the radio channels playing the user designated work of authorship when the information of one or more of the at least 100 channels corresponds to the user designated work of authorship (Column 6, lines 17 – 24).

Robbins does not explicitly that the global communication network is a satellite audio radio network or that the receiving device is a mobile receiver.

Owens teaches a time shifting system which receives radio broadcasts and is able to record those broadcasts (Abstract) which are mobile in such they are located in a vehicle such as an automobile.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Owen's disclosure of time shifting radio stations in an automobile in Robbin's system in order to perform the time shifting while driving in an automobile (Column 1, lines 8 – 11).

Titlebaum teaches a mobile radio station receiver (Column 3, lines 51 – 62) that receives and displays content/authorship information from the broadcast device (Column 4, lines 49 – 59) which includes receiving satellite radio (Column 3, lines 51 – 62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to expand Robbin's teaching of a radio alert system to look for additional types of radio communications that include authorship information in the transmission such as satellite radio found in Titlebaum, in order to allow Robbin's the increased functionality of working with even more types of radio and video communications.

Regarding claims 78 and 81, Robbins teaches the method of claim 76.

Robbins does not explicitly indicate that the receiver for receiving radio channels are located in a vehicle or a car.

Owens teaches a time shifting system which receives radio broadcasts and is able to record those broadcasts (Abstract) which is located in a vehicle such as an automobile.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Owen's disclosure of time shifting radio stations in an automobile in Robbin's system in order to perform the time shifting while driving in an automobile (Column 1, lines 8 – 11).

Regarding claim 77, Robbins teaches the method of claim 76, further indicated which works of authorship are being broadcast on each channel of at least 100 digital radio channels (Column 6, lines 39 – 47)

Robbins does not explicitly indicate receiving the information from a terrestrial repeater of the information from a satellite, wherein the information from the terrestrial repeater also indicated which works of authorship are being broadcast on one or more of the at least 100 digital satellite audio radio channels.

Titlebaum teaches the information from the terrestrial repeater also indicated which works of authorship are being broadcast (Column 3, lines 44 – 50)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to expand Robbin's teaching of a radio alert system to look for additional types of radio communications that include authorship information in the transmission such as satellite radio found in Titlebaum, in order to allow Robbin's the increased functionality of working with even more types of radio and video communications.

Claims 46 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins in view of Titlebaum and view of Owens, and further in view of Barton (6233389).

Regarding claims 46 and 57, Robbins teaches the method of claims 45 and 56.

Robbins does not explicitly indicate that the desired content is recorded in a MPEG or .WAV format.

Barton teaches a data stream recording device that stores data in MPEG format (Column 2, lines 10 – 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Barton's teaching in Robbin's system in order to allow good compression with the data being stored, while allowing the user to be able to simultaneously view or listen to the data that is being stored (Column 1, lines 63 – 67).

Claims 49, 59, 79, and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins in view of Titlebaum and view of Owens, and further in view of Wall (6055244).

Regarding claims 49, 59, 79, and 80, Robbins teaches the method of claims 43 52, and 76.

Robbins does not explicitly indicate that the designation of a work of authorship is selected from the group comprising titles, segments of titles, key phrases and key words.

Wall teaches a radio data stream that includes an identifier which includes titles and other information (Figure 8; Column 4, lines 43 – 64)).

It would have obvious to one of ordinary skill in the art at the time the invention was made to use Wall's teaching of data stream identifiers in Robbins system in order to have a more descriptive identifier contained with in the stream to display and inform the user in English what program he is listening to or reserving to record (Column 1, lines 31 – 42).

(10) Response to Argument

Regarding the appellants arguments towards the 35 U.S.C. 112, first paragraph rejection, the examiner has withdrawn the rejection so those arguments are moot.

Also any reference to Brown in the rejections to the claims is a mistake. Clearly shown by the prosecution history the combination of Robbins and Brown in the rejection was abandoned and was replaced with Robbins and Titlebaum, only the headers to the 103 rejections of claims 46 and 57, and 49, 59, 79, and 80, were mistakenly never updated to reflect the change of the rejection of Brown to Titlebaum. Brown or Titlebaum was never relied upon for any of those rejections and it has been clear in the appellant's responses that this was just an oversight by the examiner.

The appellant argues that the claimed invention is distinguishable over the prior art because the claim teaches "a single mobile receiver" while Robbins teaches a main receiver plus additional receivers.

The examiner disagrees:

The appellant points to Figure 8(a) of the reference, Robbins, argues that there is a main receiver (804) and a auxiliary receiver (806) and claims this shows that the reference cannot meet the limitation of the claim that says there is a single receiver that receives the plurality of stations. The examiner disagrees with that characterization of the reference, the rejection of the claimed invention actual points to the entire box of Figure 8(a) identified by element 802. Figure 8(a) is further described in Column 40, lines 9 – 20 of Robbins, where it shows that element 802 is considered the receiving system.

The receiving system receives a single input (814) and performs the steps of decoding at the main and auxiliary receivers (Col. 40, lines 36 – 40), comparing at the comparator (element 808; Col. 40, lines 60 – 63), and alerting the user (Col. 40, line 64 – Col. 41, line 2; see also Col. 6, lines 21 – 27). The only actual difference between the device in element 802 and the receiver claimed in the invention is that element 802 is named in Robbins as a receiving system while the appellant wants to name his a single receiver. So as shown, even though Robbin has a different names for different parts of his system and method, these parts read on the claim limitations. Just because some of the names overlap with the appellant's claimed invention does not limit the interpretation of Robbins.

In order for the appellant to contend that his single mobile receiver is distinguished from the receiver system in Robbins because of the presence of the main and auxiliary receivers, the appellant would have to show with support in the

specification the received plurality of stations are not decoded by more than one decoding element. Such interpretation of the claim language is simply not supported by the specification.

The appellant argues that the examiner has never clearly rejected the limitation directed to "alert the user"

The examiner disagrees:

As seen in the Robbin's reference in Column 6, lines 20 – 27, the reference discloses for the receiver system to "take any other action to alert or make it easy for a viewer to remember to watch the program". So Robbin's clearly teaches alerting the user when the program is found by the scanning and comparing process of the receiving system.

The appellant argues that the examiner has never met the third prong of Graham analysis by not determining the level of ordinary skill in the pertinent art.

The examiner disagrees:

As with most examiner processes of applications, the level of ordinary skill in the 103(a) rejection made in this application was established when the examiner searched the pertinent prior art that was available at the time this invention was made.

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Performing the search determines the level of ordinary skill in the art at the time the invention was made.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Kevin Bates

K T Bates

Conferees:

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